

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6248 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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P M MALANI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR PV HATHI for Petitioner

None present for Respondent No. 1

MR JD AJMERA for Respondent No. 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The learned counsel for the petitioner conceded that the grievances made by the petitioner in this Special Civil Application now no more survive, except the claim of the petitioner for Rs.4,000/- which he incurred in travelling and other incidental expenses for the inaction of

respondent No.3 in not permitting the petitioner to join at the Amreli District Panchayat.

2. This amount of Rs.4,000/- is claimed by the petitioner by way of damages, but to ascertain damages many things and questions of facts are to be decided. Negligence of the concerned officer has to be established as a fact for which recording of evidence would be necessary, which this Court sitting under Article 226 of the Constitution is normally not doing. For such claim proper and advisable course is to file civil suit. Otherwise also, the petitioner has already retired from the services long back and I do not consider to go on this question only on mere assertion and award the amount claimed. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)